IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

M.P.NO. ~~2643~~ 3648 /1991

D.B (Civil)

PETITIONER : Nan Dau S/o Chandan, caste Kalar aged about 52 years resident of Village Rabo Tahsil Gharghoda district Raigarh .

VERSUS

RESPONDENTS : 1. Collector ,Raigarh .

2. Ghasiram S/o Bhanwar Singh by caste Ganda, r/o Gadgaon, tahsil Gharghoda district Raigarh .

PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR A WRIT IN THE NATURE OF CERTIRARI, MANDAMUS, ETC. AND FOR APPROPRIATE FURTHER DIRECTIONS

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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आदेश पत्रक

मामला क्रमांक W.P. No. 3648/91 सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

16-6-2005

Shri B.D. Guru, counsel for the petitioner.

Shri Bhaskar Pyasi, Panel Lawyer for respondent No.1.

Shri Awadh Tripathi, counsel for respondent No.2.

The petitioner has preferred this writ petition under Article 226/227 of the Constitution of India questioning the legality, propriety and correctness of the order dated 26th August 1991 (Annexure-P/6) passed by the Collector, Raigarh in appeal No.11/B-121/1990-91 by exercising the appellate power.

Brief facts leading to filing of this writ petition are that respondent No.2 moved an application Annexure-P/2 before the Collector, Raigarh under the provisions of M.P. Gramin Rin Vimukti Adhiniyam, 1982 with the averments that he is the resident of village Gadgaon, Patwari Halka No.34, Tehsil Gharghoda that he after taking loan of Rs.2,700/- from moneylender Nandau, son of Chandankalar pledged ornaments but thereafter, he returned Rs.1,000/- in cash, two cows worth Rs.2,000/- and one calf valuing Rs.500/-. Thereafter, on 23rd August 1990 after taking Rs.600/-, he pledged one buffalo. On 4-9-90, he had returned Rs.700/-. The said Nandau is not returning his ornaments and buffalo. He is still demanding Rs.700/- which is not possible for him, therefore, said Nandau be directed to return his property. The said

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

application was entrusted to the S.D.O. by the Collector and after conducting enquiry, S.D.O. vide order Annexure-P/5 dated 10th January 1991 rejected the application on the ground that the provisions of M.P. Gramin Rin Vimukti Adhiniyam, 1982 are not attracted in that case and also that applicant Ghasiram has failed to prove that he pledged ornament and Buffalo after taking money. Being aggrieved by this order Ghasiram preferred an appeal before the Collector who vide order dated 26th August 1991 allowed the appeal and directed that action be taken against Nandau.

I have heard learned counsel for the parties.

Learned counsel for the petitioner argued that under the provisions of M.P. Gramin Rin Vimukti Adhiniyam, 1982 once the S.D.O. passed the order, the Collector was not entitled to entertain the appeal as there is no provision of appeal in the Act against the order passed by the authorized officer.

On the other hand, Mr. Tripathi, counsel for respondent No.2 argued that as per rule 6 of the M.P. Gramin Rin Vimukti Niyam, 1984 the Collector was entitled to entertain the appeal. He further argued that said rules has been framed under Section 8 of the M.P. Gramin Rin Vimukti Adhiniyam, 1982.

(पीछे देखिये)

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Having heard learned counsel for the parties, I have perused the records. I have also perused relevant provisions of M.P. Gramin Rin Vimukti Adhiniyam, 1982. Section 6 of the Adhiniyam envisages that '*the State Government may confer such powers and impose such duties on a Collector as may be necessary to ensure that the provision of this Act are properly carried out and the Collector may specify an officer or officers subordinate to him, who shall exercise all or any of the powers and perform all or any of the duties so conferred or imposed and determine the local limits within which such powers or duties shall be carried out by the officer or officers so specified.*' Therefore, as per the provision of Section 6 of the Act, the Collector has already authorized S.D.O. to look into the complaint of Ghasiram and S.D.O. after conducting the enquiry, rejected the complaint. But, no provision has been made in the Act about the appeal against the order passed by the officer authorized by the Collector under Section 6 of the Adhiniyam, 1982.

The argument advanced by counsel for respondent No.2 is that the Collector is entitled to entertain the appeal under Section 6 of the M.P. Gramin Rin Vimukti Adhiniyam, 1982 which are framed under Section 8 of the M.P. Gramin Rin Vimukti Adhiniyam, 1982.

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित —५—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Rule 6 of the M.P. Gramin Rin Vimukti Niyam, 1984 envisages that '*the Collector shall exercise all such powers as are necessary for carrying out the provisions of the Act.*' Rule 6 is similar to the Section 6 of the main Act and under Section 6 of the Act the State Government is entitled to confer powers on the Collector and second limb of this Section shows that the Collector may specify an officer or officers subordinate to him who shall exercise all or any of the powers and perform all or any of the duties so conferred or imposed and determine the local limits within which such powers or duties shall be carried out by the officer or officers so specified. Once the Collector entrusted the matter to the S.D.O. for enquiry as per Section 6 of the Act and the S.D.O. passed the order after inquiring them, I am of the opinion that the Collector was not entitled to hear the appeal against such order as no provision has been made in the Act or the Rules, therefore, the impugned order passed by the Collector is wholly without jurisdiction and the same is liable to be set aside.

In the result, the writ petition is allowed and the impugned order is set-aside.

C.C. as per Rules.

Sd/-
L.C. Bhadoo
Judge

Barve

(पान दाखय)